

REMARKS

Applicant respectfully requests reconsideration of the application in view of the foregoing amendments and the following remarks.

Claims 1, 4-5 and 63 are amended. Claims 6, 36-40, 50-53 and 55-62 are canceled without prejudice or disclaimer. Applicant reserves the right to pursue any canceled subject matter in one or more applications with the same rights of priority as the instant application.

Claim 64 is added to recite specific embodiments, and is supported by original claims 36 and 62.

Upon entry of the amendments, claims 1-5 and 63-64 will be pending. Applicant respectfully requests reconsideration of these claims.

§ 112 Rejections

The claims are rejected under 35 USC § 112 for alleged indefiniteness for the reasons set forth at pages 2-3 of the Action. Applicant respectfully traverses these rejections in as much as they may be applied to the instant claims.

The rejection of claim 1 is believed to be obviated by the foregoing amendments, as claim 1 now recites the list of claimed compounds without reference to formula 1 and formula 6.

The rejection of claims 4-6 is believed to be obviated by the foregoing amendments. Claims 4 and 5 now recite specific amounts of active agent (taught, for example at page 22 of the specification as filed), and claim 6 is canceled.

The rejection of 62 is obviated by its cancellation.

Applicant therefore respectfully requests reconsideration and withdrawal of the §112 rejections.

Obviousness-Type Double Patenting Rejections

Some of the claims are provisionally rejected over certain claims of co-pending applications 10/570,628; 11/659,798 and 10/486,715.

Applicant respectfully requests that the rejections based on 10/570,628 and 11/659,798 be withdrawn, because this is the earlier filed application, and should be otherwise in condition for allowance. As set forth in MPEP 804:

If a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.

Applicant submits herewith a Terminal Disclaimer to overcome the rejection based on 10/486,715.

Applicant therefore respectfully requests reconsideration and withdrawal of the obviousness-type double patenting rejections.

Conclusion

Applicant believes that the application is in condition for allowance, and an early notice to that effect is earnestly solicited.

If there are any questions surrounding this submission, or if any issues remain, the Examiner is invited to contact the undersigned by telephone in order to advance prosecution.

The Commissioner is hereby authorized to charge any additional fees that may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extension of time is needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such

extension under 37 C.F.R. §1.136 and authorizes payment of any extension fees to Deposit Account No. 19-0741.

Respectfully submitted,

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